



THE ATTORNEY GENERAL OF TEXAS

GERALD C. MANN
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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable J. P. Gibbs, Commissioner
Board of Insurance Commissioners
Austin, Texas

Dear Sir:

Attention: Mr. Vestal Lemmon

Opinion No. 0-3105

Re: Can the Transportation Insurance Agency of Dallas, Texas, legally issue a certificate of the type set forth?

Your recent request for an opinion of this department on the above stated question has been received.

We quote from your letter as follows:

"We are submitting herewith a certificate of insurance written through the Transportation Insurance Agency, Dallas, Texas, issued to Chester Cotter, Campbellton, Texas.

"This certificate evidences that cargo coverage is afforded in an amount not exceeding \$1,000, and that public liability for \$5,000/\$10,000 limits and property damage for \$5,000 limits are afforded on a certain tractor and trailer combination automobile. This department is not concerned with regard to the cargo coverage, because we supervise neither the rates nor the forms in connection therewith.

"The records of this department reflect that the National Mutual Casualty Company of Tulsa, Oklahoma, which company has been duly authorized to write automobile insurance in this state, is affording bodily injury and

property damage liability insurance on this same combination automobile unit under policy No. T-7770, which has been countersigned by the Transportation Insurance Agency, Dallas, Texas. This number is reflected in the certificate hereto attached.

"The Board has heretofore prescribed uniform standard automobile policy and endorsement forms consistent with the provisions of Section 5, Article 4682b, Revised Civil Statutes. The form hereto attached has not been prescribed and approved for use in connection with the writing of bodily injury and property damage liability coverages in the State of Texas.

"The Transportation Insurance Agency has been licensed as an agent by the Board of Insurance Commissioners to write fire and casualty business in this state. This concern has not been authorized to act in the capacity of an insurance company.

"We respectfully request your opinion as to whether the Transportation Insurance Agency of Dallas, Texas, can legally issue a certificate of the type attached."

Section 5 of Article 4682b, Vernon's Annotated Civil Statutes, reads as follows:

"Sec. 5. In addition to the duty of approving classifications and rates, the Commissioner shall prescribe policy forms for each kind of insurance uniform in all respects except as necessitated by the different plans on which the various kinds of insurers operate, and no insurer shall thereafter use any other form in writing automobile insurance in this State; provided, however, that any insurer may use any form of endorsement appropriate to its plan of operation, provided such endorsement shall be first submitted to and approved by the Commissioner; and any contract or agreement not written into the application and policy shall be void and of no effect and in violation of the provisions of this Act, and shall be sufficient cause for revocation of license of such insurer to write automobile insurance within this State."

The last paragraph of Section 1 of Article 4682b, provides:

"Motor vehicle or automobile insurance as referred to in this Act shall be taken and construed to mean every form of insurance on any automobile or other vehicle hereinafter enumerated and its operating equipment or necessitated by reason of the liability imposed by law for damages arising out of the ownership, operation, maintenance, or use in this State of any automobile, motorcycle, motor-bicycle, truck, truck-tractor, tractor, traction engine, or any other self-propelled vehicle, and including also every vehicle, trailer or semi-trailer pulled or towed by a motor vehicle, but excluding every motor vehicle running only upon fixed rails or tracks. . . ."

Section 5, Article 4682a, supra, imposes upon the Board of Insurance Commissioners the duty of prescribing uniform policy and endorsement forms for the writing of all classes of motor vehicle or automobile insurance as referred to in the Act, in this State. The Board of Insurance Commissioners in compliance therewith has prescribed standard policy forms including statutory endorsement forms for attachment to policies covering trucks, buses and other motor vehicles operating under a certificate of convenience and necessity from the Railroad Commission of Texas.

We believe that the fact that the policy or certificate affording bodily injury and property damage liability insurance on the same combination automobile unit under policy No. T-7770 is immaterial, in so far as it

affects the duty of the Board of Insurance Commissioners of prescribing uniform policies and endorsement forms for writing all classes of automobile insurance in Texas. Under the facts stated in your letter, the Board of Insurance Commissioners has not prescribed or approved the certificate of the type attached to your inquiry. We believe Under Article 4682b, that the Board of Insurance Commissioners has the legal right and authority to prescribe and approve for use such policy forms and endorsement forms as may be determined by the Board in the exercise of its discretion. As the above mentioned form has not been prescribed or approved by the Board, it is our opinion that the Transportation Insurance Agency of Dallas, Texas, cannot legally issue certificate of the type attached to your inquiry.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly
ATTORNEY GENERAL OF TEXAS

By Ardell Williams
 Assistant

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APPROVED MAY 7, 1941
GROVER SELLERS
FIRST ASSISTANT
ATTORNEY GENERAL

APPROVED OPINION COMMITTEE
BY BWB, CHAIRMAN